



Battle Creek Zoning Board of Appeals

Staff Report

Meeting: July 13, 2010

To: Zoning Board of Appeals
From: Glenn Perian, Senior Planner
Subject: Petition for a dimensional variance (Z-08-10) to permit an increase to the height of an existing tower at 7 Grand Boulevard to allow for additional collocation carriers on the tower.

Summary

This report addresses a petition from American Tower seeking approval of a dimensional height variance (Z-08-10), to allow for an additional change in height for an existing tower to allow for an additional wireless carrier on the tower.

Background/Project Information

The subject site is located at the general intersection of Grand Boulevard and E. Territorial Rd. The property is located in the R-2 "Two-Family Residential District". The Crooks Plumbing and Heating business occupies the subject property along with the existing tower. Some of you may recall back in May of 2007, American Tower applied for and was granted a variance to relocate and rebuild the tower to its existing location. Along with the relocation, and rebuild, the tower was increased from 120' to 140'. The original tower predated the current ordinance and the rebuild and height increase in 2007 was done to allow for additional carriers. The request now is to increase the tower another ten feet to allow for additional wireless carriers which is in conflict with Chapter 1297.08(2)B., which in part states: *"Height. An existing tower may be modified or rebuilt to a taller height not to exceed thirty feet over the tower's existing height only to accommodate the co-location of an additional antenna. **The height change permitted by this paragraph may only occur one time per communication tower...**"*

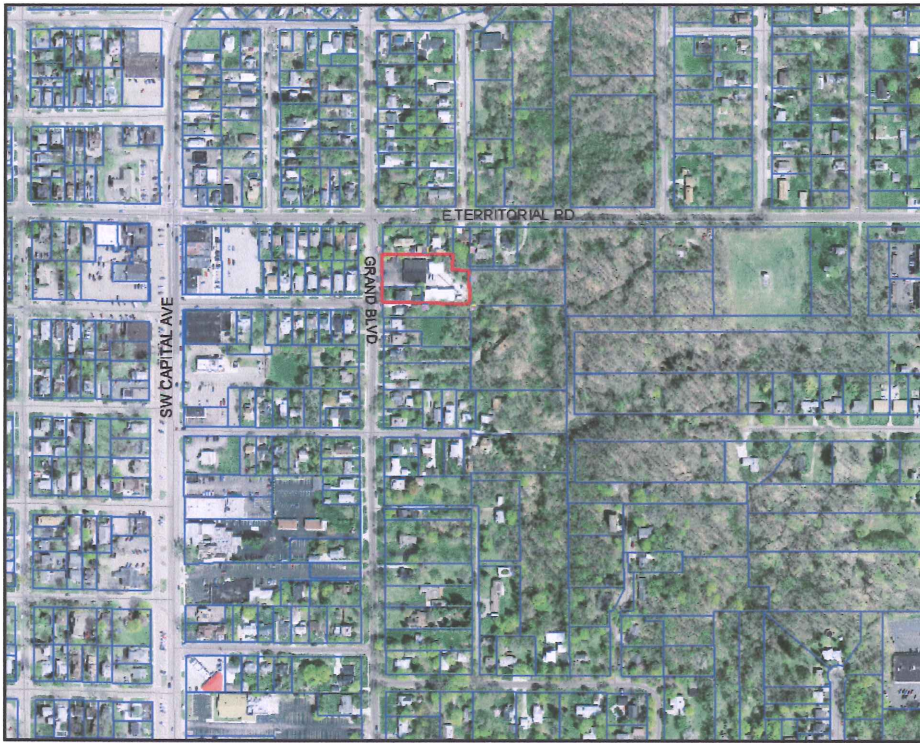
Public Hearing and Notice Requirements

An advertisement of this public hearing was published in the Battle Creek SHOPPER NEWS on Thursday, June 17, 2010 – not less than the 15 days before the hearing as required by State Law and ordinance.

Notices of the public hearing were also sent by regular mail on June 14, 2010 to 62 property owners and occupants located within 300 feet of the subject parcel. Staff has received no comments relative to this request.

Surrounding Land Uses

The subject property is located in the general vicinity of Grand Boulevard and E. Territorial and is surrounded primarily by vacant land and residential uses.



Aerial of subject site

Applicable Zoning Ordinance Provisions

Chapter 1234.04 (b) (1) authorizes the Zoning Board of Appeals to grant variations in the yard requirement of any district where there are unusual and practical difficulties in the carrying out of the requirements of the Zoning Code due to the irregular shape of the lot or topographical conditions, provided that such a variation will not seriously affect any adjoining property or the general welfare of the public; and

Chapter 1234.04 (b) (2) authorizes the Zoning Board of Appeals to grant variations, upon appeal, whenever a property owner can show that strict application of the provisions of the Zoning Code relating to the use of buildings or structures or to the use of land will impose upon them unusual and practical difficulties or hardship. This section requires that such variations of the strict application of this Zoning Code as are in harmony with its general purpose and intent, but only when the Board is satisfied that a granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variation from the Master Plan, as established by the Zoning Code, and that the surrounding property will, at the same time, be properly protected.

Analysis

The Appellant is requesting a dimensional variance that would authorize the increase of an existing tower located at 7 Grand Boulevard by ten feet to accommodate additional wireless carriers, contrary to limitations outlined in chapter 1297 of the Planning and Zoning Code.

The Appellant has stated in the supporting material that the increase in height is required to support capacity and coverage gaps for the carrier and that the increase in height is minor in comparison to constructing another tower facility.

The Appellant has supplied additional reasoning supporting the request for appeal and they are included with the application and part of this report. A site plan, site survey, and tower elevation and antenna orientation drawing has also been provided.

Is there something unique about this lot or property that makes relief necessary? The Appellant is suggesting that that the location of a tower on a piece of property is not typical of other properties located throughout the City. They also state, and we agree, that it would be more desirable to collocate on existing towers rather than constructing additional tower structures (see Ch. 1297.01). We also think that if the tower were extended by ten feet, the visual impact on the neighborhood would be less than that of a new tower structure which may be allowed elsewhere in the neighborhood.

- We would suggest that before a variance is granted the Appellant give an explanation satisfactory to the Board that the tower can not support the additional carrier without the requested ten foot variance.



tower view from E Territorial looking NW



tower view from Grand Blvd looking E

FINDINGS AND RECOMMENDATION

The Zoning Board of Appeals can approve, approve with conditions, or deny this request. The Zoning Board of Appeals can also table or postpone the request pending additional information. In consideration of all variations from the Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the conditions listed below are satisfied. Planning staff has reviewed these conditions and believe that each condition can be justified in an affirmative manner. We have provided a rationale for each condition set forth below for Dimensional Variances, provided that the Applicant has sufficiently explained to the Board why collocation can not occur at a lower height on the tower. Planning staff recommends that the Zoning Board of Appeals approve the Dimensional Height Variance (Z-08-10) based on the following findings contained in this staff report along with the following conditions of approval.

- 1) Staff finds that there is an unusual and practical difficulty specific to the property in question due to the potential visual impact on the neighborhood in this particular case.

- 2) Granting the variance and thereby permitting the applicant to move forward with the project in spite of the fact it is not in compliance with the zoning ordinance will not seriously affect any adjoining property or the general welfare of the public in that staff believes that the ten foot height extension is negligible in comparison to the construction of an additional tower structure in the near vicinity.
- 3) Staff believes that if the variance in question is granted the property will still be in harmony with the general purpose and intent of the zoning district in that there is already a tower in place. A ten foot extension will have a minimal visual impact on the neighborhood.
- 4) Staff believes that if the Zoning Board grants the variance, the ten foot extension will not serve merely as a convenience to the applicant and will alleviate some demonstrable practical difficulty so great as to warrant a variation to the Master Plan and the surrounding property will, at the same time be protected in that a new tower will have more of an impact on the neighborhood than the requested ten foot extension while serving the coverage and capacity needs of the carrier's customers.

If the Zoning Board finds that all of the above conditions have been satisfied, then all of the following standards must be met, as well.

- a) Staff believes that the Appellant has clearly demonstrated that practical difficulty will in fact exist if the variance is not granted in that the ten foot extension will have less of an impact on the neighborhood than a new tower structure.
- b) Staff believes that the appellant has not created the practical difficulty associated with this request.
- c) Staff believes that the practical difficulties are exceptional and peculiar to the property of the person requesting the variance for the reasons stated in item #1 above.
- d) Staff believes that the alleged practical difficulties result from conditions which do not generally exist throughout the City in that capacity needs continue to increase for wireless carriers and the number of existing cell towers are limited.
- e) The Appellant has furnished documentation to indicate that practical difficulties do, in fact, exist and Staff thinks that the furnished documentation relative to the unique use meets the standards outlined in the Zoning Code authorizing the Board to grant the variance. We would however like additional explanations outlining why the needs of the wireless carrier can not be met on the existing tower without the variance.
- f) Staff does not believe the term "practical difficulty" is deemed financial hardship in this case.
- g) Staff believes the alleged practical difficulty which will result in a failure to grant the variance is substantially more than a mere inconvenience in this case. As stated previously, staff is recommending that additional information is provided to the

satisfaction of the Board and a ten foot extension to an existing tower is more desirable than a new tower structure in the area.

- h) Staff thinks that by allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by the Zoning Code, the individual practical difficulties that will be suffered by a failure of the Board to grant a variance and especially the rights of others whose property would be affected by the allowance of the variance.
- i) Every finding of fact of the Board shall be supported in the record of proceedings of the Board.
- j) Nothing contained in this section shall be construed to authorize the Board to change the terms of this Zoning Code.

Attachments

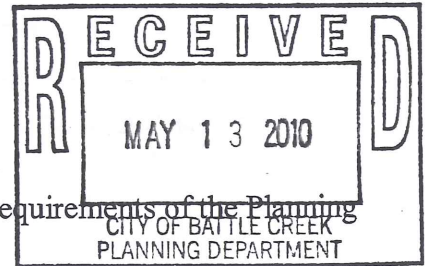
The following information is attached and made part of this Staff Report.

- 1. ZBA Petition Form (Petition #Z-08-10),
- 2. Site plan showing details of the existing tower and extension
- 3. Letter from Arthur Crooks authorizing American Tower to represent them for the variance request
- 4. Staff report dated 5/31/07 for the relocation of the existing tower at 7 Grand Blvd

Date: 1/11/2010

Appeal No. Z-08-10

APPLICATION FOR A VARIANCE
ZONING BOARD OF APPEALS
City of Battle Creek, Michigan



An Appeal to the Zoning Board of Appeals to authorize a variance from the requirements of the Planning and Zoning Code (Part Twelve) of the City of Battle Creek.

Name of Appellant: Bonnie Belair / American Tower # 266432

Address: 10 Presidential Way Phone: 781 926-4637
Woburn, MA 01801

Name of Owner (if different from Appellant): Arthur W Crooks II

Address: 1 Grand Blvd Phone: 781 926-4637
Battle Creek, MI 49015

TO THE ZONING BOARD OF APPEALS: Request is hereby made for permission to:

(Choose One) Extend Erect Waive Use Convert Enclose

American Tower is requesting a variance to extend
the height of tower by ten feet in order to
accommodate a collocation.

contrary to the requirements of Section(s) 1297.08 (2)(B) of the Planning and Zoning
Code, upon the premises known as 1 Grand Blvd Battle Creek, MI, in
accordance with the plans and/or plat record attached.

The proposed building or use requires Board action in the following area(s):

The increase in height to the tower will require
relief in the form of a variance for the height extension

Property/Tax I.D.# No. 7610-15-176-0

Size of the Lot: Width _____ Depth _____
Size of Proposed Building: Width _____ Depth _____ Height _____

The following reasons are presented in support of this appeal (complete each section):

- a) This property cannot be used in conformance with the ordinance without the requested variance because:

The proposed collocation needs the requested height
relief to support capacity and coverage gap; customer
would need to apply to build a new tower when
collocation would meet their need.

- b) This problem is due to a unique situation not shared in common with nearby property owners because:

The use is not shared in common with nearby property owners as it is for telecommunications.

- c) Granting the variance would not alter the essential character of the area because:

The telecommunications facility is an existing use and ten feet is a minimal relief in place of building another facility.

- d) The problem is not self-created because:

Collocation is encouraged and needed to accommodate two wireless carriers.

- e) **USE VARIANCES ONLY** It is not possible to use this particular property for any other use currently allowed in the zoning district because:

I hereby affirm that, to the best of my knowledge, all the above and accompanying statements and drawings are correct and true. In addition, I give permission to the City of Battle Creek's Planning Department staff to access my property, if necessary, to take photographs of the subject of this appeal.

Bonnie Belair

(Print Appellant Name)

Bonnie Belair

(Signature of Appellant)

American Tower, 10 Presidential Way
(Address of Appellant) Woburn, MA 01801

If you require additional information or assistance in filling out this application, please contact the Planning Department at (269) 966-3320.



AMERICAN TOWER™
CORPORATION

January 13, 2010

Arthur W Crooks II
7 Grand Blvd
Battle Creek, MI 49015

Re: Request for Authorization for American Tower to submit an application for a Variance for a ten foot height extension at the telecommunications facility.

American Tower Site # 266432 Battle Creek MI (Site")

Dear Mr. Crooks:

The purpose of this letter is to request your authorization as required by the jurisdiction to submit an application for a Variance to increase the height of the telecommunications tower at the above-referenced Site located on your property.

American Tower will be making the modifications and will continue to be responsible for its obligations under its lease.

Please acknowledge your authorization to this application by signing and dating this letter in the space below and returning to my attention as soon as possible. Please retain a copy for your records. If you have any questions, please do not hesitate to call me at 781 926-4637. Thank you for your attention to this matter.

Sincerely,

Bonnie Belair
Zoning Attorney
A.I.P.

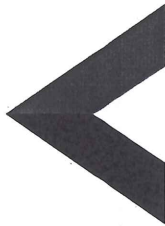
Enclosure

Land Owner hereby authorizes the application for a permit to Village of Orland Park at the Site.

WITNESS
LAND OWNER
DATE 1-15-2010

*American Tower as used herein means the tenant under the lease, which is an affiliate or subsidiary of American Towers, Inc.

LOCAL MAP 1:5000



AMERICAN TOWER®

ATC SITE IDENTIFICATION:

SITE NUMBER: 266432

SITE NAME: BATTLE CREEK MI1 REBUILD

SITE ADDRESS: 7 GRAND BLVD.

BATTLE CREEK, MI 49015



**Know what's below.
Call before you dig.**

**THIS FACILITY SHALL MEET OR EXCEED ALL
FAR AND FCC REGULATORY REQUIREMENTS.**

VICINITY MAP 1:10000



AMERICAN TOWER®
STRUCTURAL
ENGINEERING
8505 FREPORT PARKWAY
SUITE 135
IRVING, TX 75063
(972) 999-8900 Tel.
(972) 999-8940 Fax

THESE DRAWINGS AND/OR THE ACCOMPANYING SPECIFICATION AS INSTRUMENTS OF SERVICE ARE THE EXCLUSIVE PROPERTY OF AMERICAN TOWER CORPORATION AND THEIR USE AND PUBLICATION SHALL BE RESTRICTED TO THE PERSONAL SITE FOR WHICH THEY ARE PREPARED. REUSE, REPRODUCTION OR PUBLICATION BY ANY METHOD, IN WHOLE OR IN PART, IS PROHIBITED WITHOUT WRITTEN PERMISSION FROM AMERICAN TOWER CORPORATION. TITLE TO THESE DRAWINGS AND/OR SPECIFICATIONS SHALL REMAIN WITH AMERICAN TOWER CORPORATION WITHOUT PREJUDICE AND VISUAL CONTACT WITH THEM SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF ACCEPTANCE OF THESE RESTRICTIONS.

SITE NUMBER:
266432

SITE NAME:
BATTLE CREEK
MI1 REBUILD, MI

SITE ADDRESS:

7 GRAND BLVD.
TLE CREEK, MI 49015

STAMP HERE:

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1

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CHECKED BY: .	SAE
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DATE DRAWN:	01/
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JOB NO:	444
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SUBJECT TOPIC:

TITLE SHEET
VICINITY MAP
AND GENERAL
INFORMATION

SHEET NUMBER: T-10 REV. 0



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SITE NUMBER:
266432

SITE NAME:
BATTLE CREEK
MI1 REBUILD, MI

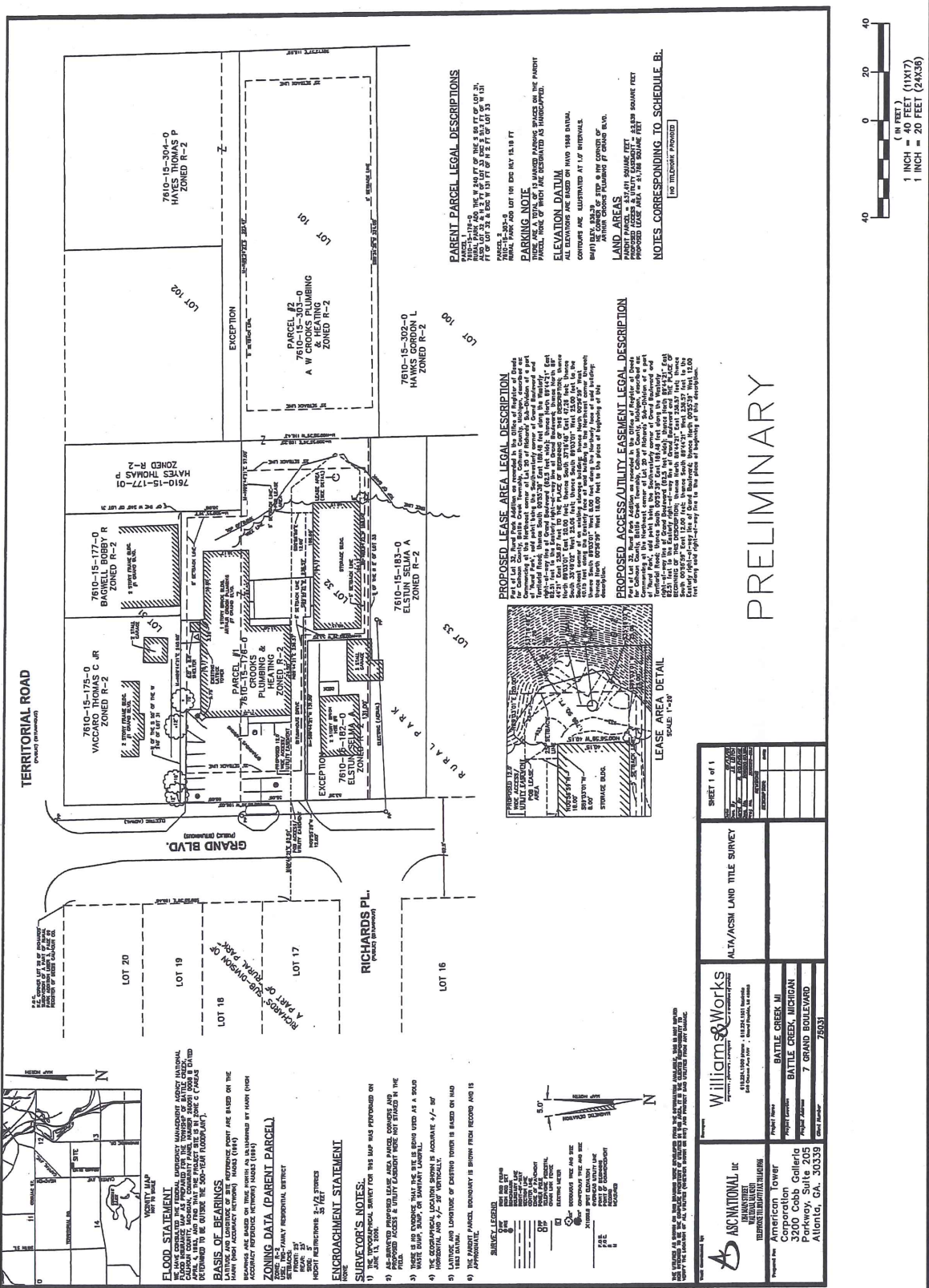
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7 GRAND BLVD.
BATTLE CREEK, MI 499

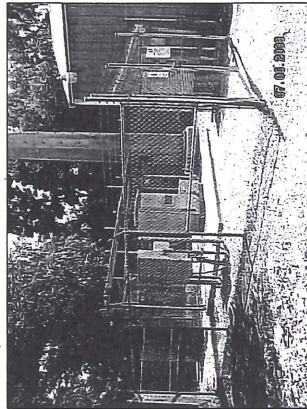
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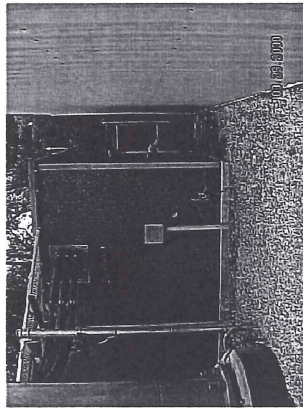
SITE SURVEY

SHEET NUMBER:	REV. #
C-1	0





COMPOUND VIEW



PROPOSED LOCATION FOR CLEARWIRE

LEGEND

CHAIN LINK FENCE	---
PROPERTY LINE	---
LEASE AREA	---
OVERHEAD TELEPHONE/	---
OVERHEAD POWER	---
UNDERGROUND UTILITY LINES	---
UTILITY EASEMENT	---

GENERAL NOTES:

LIGHTING: THE PROPOSED TOWER MODIFICATION AND EXISTING FACILITY WILL MEET OR EXCEED ALL FIM AND FCC REGULATORY REQUIREMENTS.

PARKING: ONE PARKING SPACE IS REQUIRED, ONE EXISTING.

SIGNAGE: EXTERIOR SIGNS ARE NOT PROPOSED EXCEPT AS REQUIRED BY THE FCC.

STORM WATER CONTROL: NO WATER QUALITY CONTROL DEVICES CURRENTLY EXIST FOR THIS TELECOMMUNICATION FACILITY.

UTILITIES: SANITARY SEWER SERVICE AND POTABLE WATER ARE NOT APPLICABLE PER THE APPLICABLE SUBCONTRACTOR SHALL LOCATE ALL UTILITIES PRIOR TO EXCAVATING.

DRIVEWAY: A DRIVEWAY PERMIT OR TIA WAS NOT REQUIRED FOR THIS FACILITY. THE DRIVEWAY SHALL BE DEDICATED FOR PUBLIC USE.

LANDSCAPING: EXISTING FACILITY IS SITUATED IN THE MIDDLE OF A FIELD.

MISC: NO SMOKE, DUST, VAPORS OR ODOR RESULT FROM THIS FACILITY BEING IN OPERATION.

**AMERICAN TOWER
STRUCTURAL
ENGINEERING**
6505 FLYNN PARKWAY
SUITE 135
IRVING, TX 75063
(972) 992-8840 FAX
TWE-AMT

THESE DRAWINGS AND/OR THE ASSOCIATED SPECIFICATIONS ARE INSTRUMENTS OF SERVICE AND ARE THE EXCLUSIVE PROPERTY OF AMERICAN TOWER STRUCTURAL ENGINEERING. NO REUSE, REPRODUCTION OR PUBLICATION BY ANY MEANS, IN ANY FORM OR BY ANY METHOD, IS PERMITTED WITHOUT THE WRITTEN PERMISSION FROM AMERICAN TOWER STRUCTURAL ENGINEERING. ANY REUSE OR REPRODUCTION OF THESE DRAWINGS WITHOUT THE WRITTEN PERMISSION FROM AMERICAN TOWER STRUCTURAL ENGINEERING SHALL CONSTITUTE A BREACH OF CONTRACT AND SHALL BE SUBJECT TO LEGAL ACTION.

SITE NUMBER:
266432

SITE NAME:
**BATTLE CREEK
MI1 REBUILD, MI**

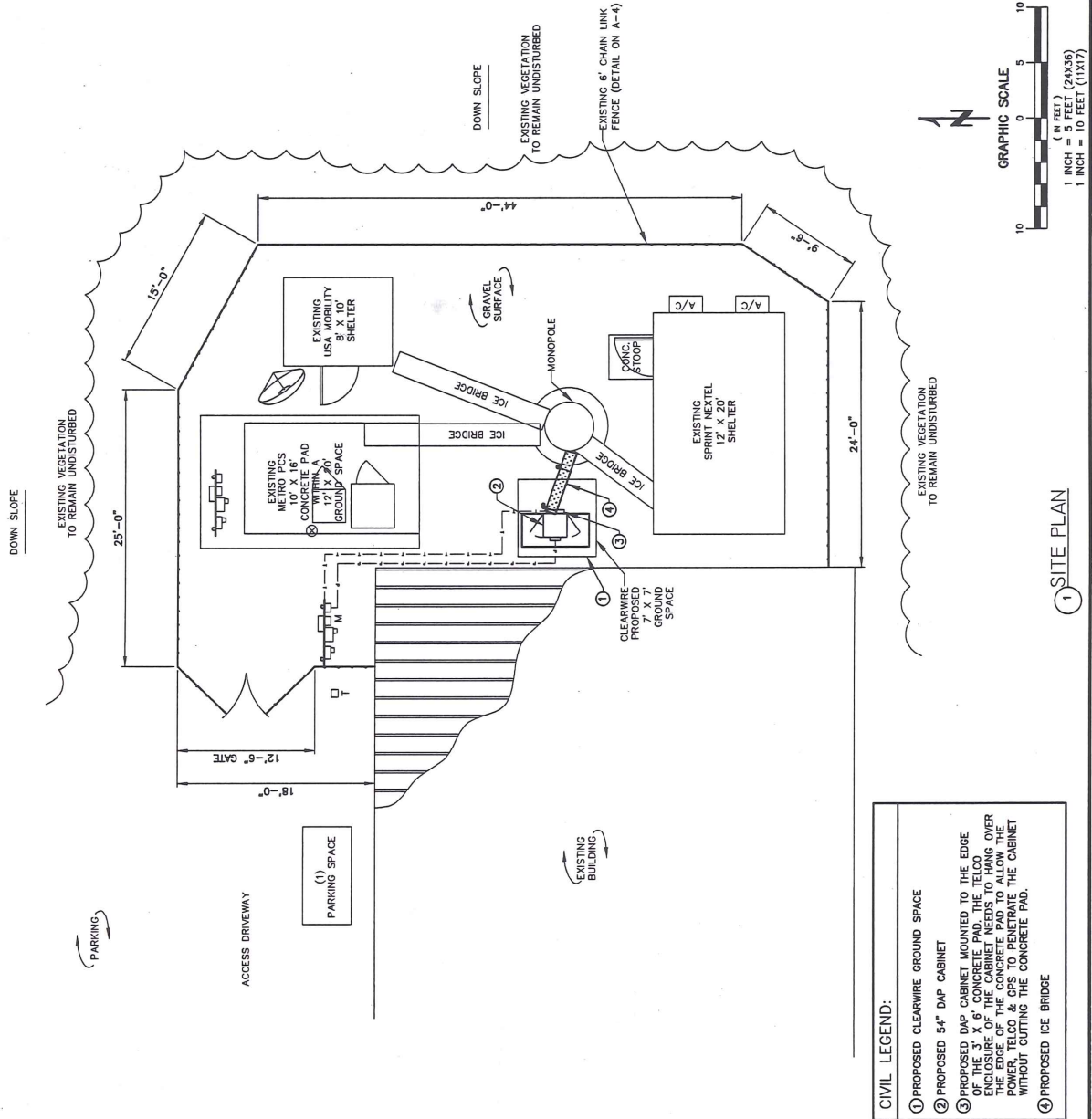
SITE ADDRESS:
**7 GRAND BLVD.
BATTLE CREEK, MI 49015**

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DRAWN BY:	PP
CHECKED BY:	SAC
DATE DRAWN:	01/12/10
JOB NO.:	44480741
SHEET TITLE:	

SITE PLAN

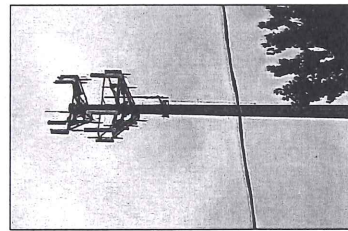
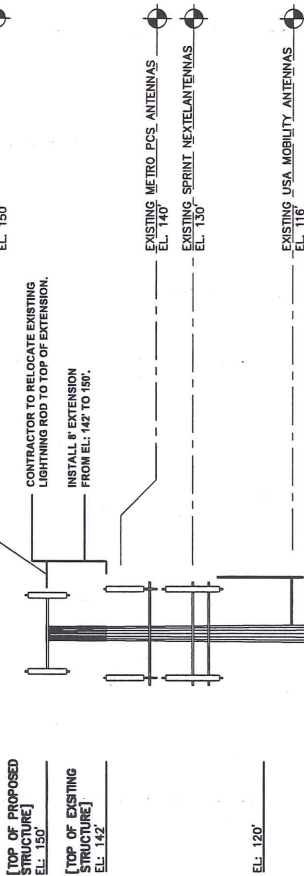
SHEET NUMBER: **A-1** REV. # **0**



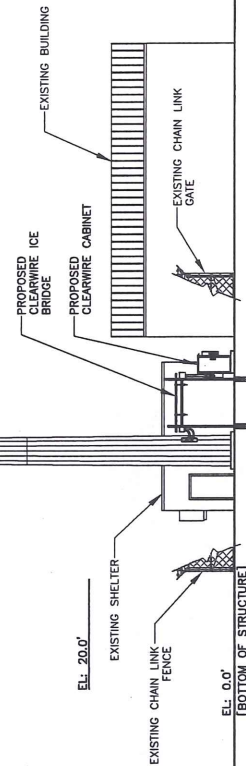
CIVIL LEGEND:

- PROPOSED CLEARWIRE GROUND SPACE
- PROPOSED 54" DAP CABINET
- PROPOSED DAP CABINET MOUNTED TO THE EDGE OF THE 3' X 6' CONCRETE PAD. THE TELCO ENCLOSURE OF THE CABINET NEEDS TO HANG OVER THE EDGE OF THE CONCRETE PAD TO ALLOW THE POWER, TELCO & OPS TO PENETRATE THE CABINET WITHOUT CUTTING THE CONCRETE PAD.
- PROPOSED ICE BRIDGE

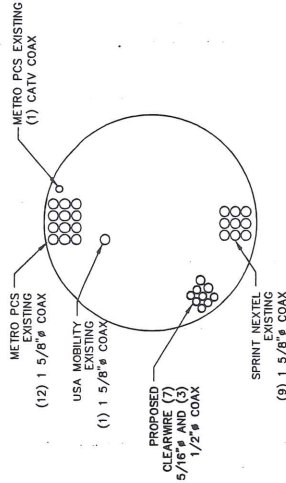
NOTE:
FOR COMPLETE TOWER MODIFICATION DRAWINGS PLEASE
REFERENCE ATC PROJECT NUMBER XXXX DATED XX/XX/XX.



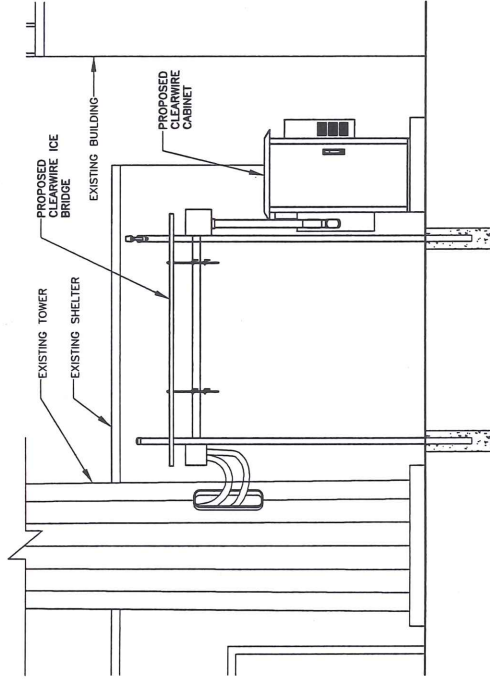
EXISTING TOWER



1 TOWER ELEVATION
SCALE: NOT TO SCALE



3 EXISTING COAX DISTRIBUTION
SCALE: NOT TO SCALE



2 TYPICAL CLEARWIRE INSTALLATION
SCALE: NOT TO SCALE



THESE DRAWINGS AND/OR THE ACCOMPANYING SPECIFICATIONS ARE INSTRUMENTS OF SERVICE. THEY ARE THE PROPERTY OF AMERICAN TOWER CORPORATION AND THEIR USE AND REPRODUCTION FOR ANY OTHER PROJECT OR PURPOSE WITHOUT THE WRITTEN CONSENT OF AMERICAN TOWER CORPORATION IS STRICTLY PROHIBITED. IN WITNESS WHEREOF, THE ENGINEER HAS HEREUNTO SET HIS HAND AND SEAL OF OFFICE AT IRVING, TEXAS, THIS 15TH DAY OF JANUARY, 2001.

SITE NUMBER:
266432

SITE NAME:
BATTLE CREEK
M1 REBUILD, MI

SITE ADDRESS:
7 GRAND BLVD.
BATTLE CREEK, MI 49015
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CHECKED BY:	SAE
DATE DRAWN:	01/12/01
JOB NO.:	4440071
SHEET TITLE:	

TOWER
ELEVATION &
ANTENNA
ORIENTATION

SHEET NUMBER
A-2
REV. #
0



1 TELCO AND METER RACK DETAILS
NOT TO SCALE



GENERAL NOTES:

1. OBTAIN PERMIT AND PAY FEES RELATED TO ELECTRICAL WORK PERFORMED ON THIS PROJECT. DELIVER COPIES OF ALL PERMITS TO CLEARWIRE TECHNOLOGIES, INC.
2. SCHEDULE AND ATTEND A MEETING RELATED TO ELECTRICAL WORK REQUIRED BY THE CONSTRUCTION MANAGER. THE MEETING SHOULD BE HELD AT THE PROJECT TO PASS ANY FAILED INSPECTION.
3. RETURNED AS-BUILTS ARE TO BE DELIVERED TO CLEARWIRE TECHNOLOGIES, INC. REPRESENTATIVE.
4. PROVIDE COPIES OF OPERATION AND MAINTENANCE MANUALS IN THREE-RING BINDER.
5. FURNISH AND INSTALL THE COMPLETE ELECTRICAL SYSTEM, TELCO SYSTEM, AND THE GROUNDING SYSTEM AS SHOWN ON THESE DRAWINGS.
6. ALL ELECTRICAL MATERIALS AND EQUIPMENT WILL BE APPLICABLE TO BUILDING CODES AND LOCAL ORDINANCES. INSTALLED IN A NEAT MANNER AND SHALL BE SUBJECT TO APPROVAL BY CLEARWIRE TECHNOLOGIES, INC. REPRESENTATIVE.
7. PROVIDE CONSTRUCTION SITE VISIT AND VERIFY EXISTING SITE CONDITIONS AFFECTING THIS WORK. REPORT ANY OMISSIONS OR DISCREPANCIES FOR CLARIFICATION PRIOR TO THE START OF CONSTRUCTION.
8. PROTECT ADJACENT STRUCTURES AND FINISHED FROM DAMAGE. REPAIR TO WILL BE REMOVED BY OTHERS. DEBRIS NOT REMOVED IN A TIMELY FASHION WILL BE CHARGED ACCORDINGLY. REMOVAL OF DEBRIS SHALL BE COORDINATED WITH THE PROJECT OWNER. EXISTING DEBRIS SHALL BE REMOVED FROM THE PROJECT AND DISPOSED OF LEGALLY. USE OF THE PROPERTY'S DUMPSTER IS PROHIBITED.
10. CONTRACTOR TO CONFIRM AVAILABLE CAPACITY AT EXISTING UTILITY FEDESTAL AND ASSESS ENGINEER OF SERVICE SIZE AND FAULT CURRENT LEVEL.
11. CONTRACTOR SHALL SUBMIT A REQUEST FOR QUOTE TO THE UTILITY COMPANY AND COST QUOTATION TO UPGRADE. UPON APPROVAL OF LIMITED COST QUOTATION, THE CONTRACTOR SHALL PROVIDE NEW SERVICE AND/OR UPGRADE SERVICE. FEEDERS AND EQUIPMENT/ELECTRODE GROUNDING CONDUCTORS SIZE ACCORDINGLY.
12. CONTRACTOR SHALL VERIFY SEPARATION DIMENSION BETWEEN POWER COMPANY ELECTRICAL CHASSELTS AND LP GAS PIPES AS PER UTILITY COMPANY. LOCAL ELECTRICAL CODES, NEC, NFPA, AND GAS TANK MANUFACTURER'S SPECIFICATION.
13. CONTRACTOR SHALL VERIFY THAT THE TOTAL NUMBER OF SERVICE ENTRANCE EXITS ARE NOT EXCEEDED. IF THE TOTAL NUMBER OF SERVICE ENTRANCE EXITS EXCEEDS SIX (6) IF THE NEW SERVICE ADDED EXCEEDS THIS VALUE, CONTRACTOR MUST COORDINATE WITH THE UTILITY COMPANY AND AUTHORITY HAVING JURISDICTION. THE RUNNING OF AN ADDITIONAL EXCLUSIVE AND DEDICATED SERVICE LATERAL, SHALL BE THE NEW LOAD ADDED TO THE COMPOUND AS PER NEC ARTICLE 230-(2)(b).
14. THE EQUIPMENT/PROTECTIONS MUST BE RATED FOR STANDARD AMP RATE. HIGHER THAN INCOMING EQUIPMENT AND/OR UTILITY COMPANY AMP RATE.

	AMERICAN TOWER STRUCTURAL ENGINEERING 8005 FREIGHT PARKWAY IRVING, TX 75039 (972) 939-8800 Fax (972) 939-8840 For more info	THESE DRAWINGS AND/OR THE ACCOMPANYING SPECIFICATIONS ARE THE PROPERTY OF AMERICAN TOWER. THEY ARE THE EXCLUSIVE PROPERTY OF AMERICAN TOWER AND ARE NOT TO BE REPRODUCED, COPIED, REPRODUCED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF AMERICAN TOWER. ANY REUSE OR REPRODUCTION OF THESE DRAWINGS OR SPECIFICATIONS WITHOUT THE WRITTEN PERMISSION OF AMERICAN TOWER SHALL BE PROSECUTED TO THE FULL EXTENT OF THE LAW. AMERICAN TOWER SHALL BE NOTIFIED IN WRITING OF ANY SUCH VIOLATION. IN WITNESS WHEREOF, AMERICAN TOWER HAS CAUSED THESE DRAWINGS TO BE SIGNED AND SEALED BY A PROFESSIONAL ENGINEER LICENSED IN THE STATE OF TEXAS. THE SIGNATURE AND SEAL OF THE ENGINEER ARE HEREIN AFFIXED TO THESE DRAWINGS. THESE DRAWINGS ARE THE PROPERTY OF AMERICAN TOWER AND ARE NOT TO BE REPRODUCED, COPIED, REPRODUCED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF AMERICAN TOWER. ANY REUSE OR REPRODUCTION OF THESE DRAWINGS OR SPECIFICATIONS WITHOUT THE WRITTEN PERMISSION OF AMERICAN TOWER SHALL BE PROSECUTED TO THE FULL EXTENT OF THE LAW. AMERICAN TOWER SHALL BE NOTIFIED IN WRITING OF ANY SUCH VIOLATION. IN WITNESS WHEREOF, AMERICAN TOWER HAS CAUSED THESE DRAWINGS TO BE SIGNED AND SEALED BY A PROFESSIONAL ENGINEER LICENSED IN THE STATE OF TEXAS. THE SIGNATURE AND SEAL OF THE ENGINEER ARE HEREIN AFFIXED TO THESE DRAWINGS.	SITE NUMBER: <div style="font-size: 24pt; font-weight: bold;">266432</div>
	SITE NAME: <div style="font-size: 24pt; font-weight: bold;">BATTLE CREEK M11 REBUILD, MI</div>	SITE ADDRESS: 7 GRAND BLVD. BATTLE CREEK, MI 49015	
STAMP HERE		DRAWN BY: PP CHECKED BY: SAE DATE DRAWN: 01/17/10 JOB NO: 444607J1 SHEET TITLE:	POWER & TELCO RACK DETAILS
SHEET NUMBER:		REV. #	<div style="font-size: 36pt; font-weight: bold;">A-3</div> <div style="font-size: 36pt; font-weight: bold;">0</div>



AMERICAN TOWER
STRUCTURAL
ENGINEERING
 6505 FREEPORT PARKWAY
 SUITE 135
 BATTLE CREEK, MI 49815
 (973) 898-8900 Fax
 (973) 898-8940
 TWE:AJT

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SITE NUMBER:
266432

SITE NAME:
**BATTLE CREEK
 MI1 REBUILD, MI**

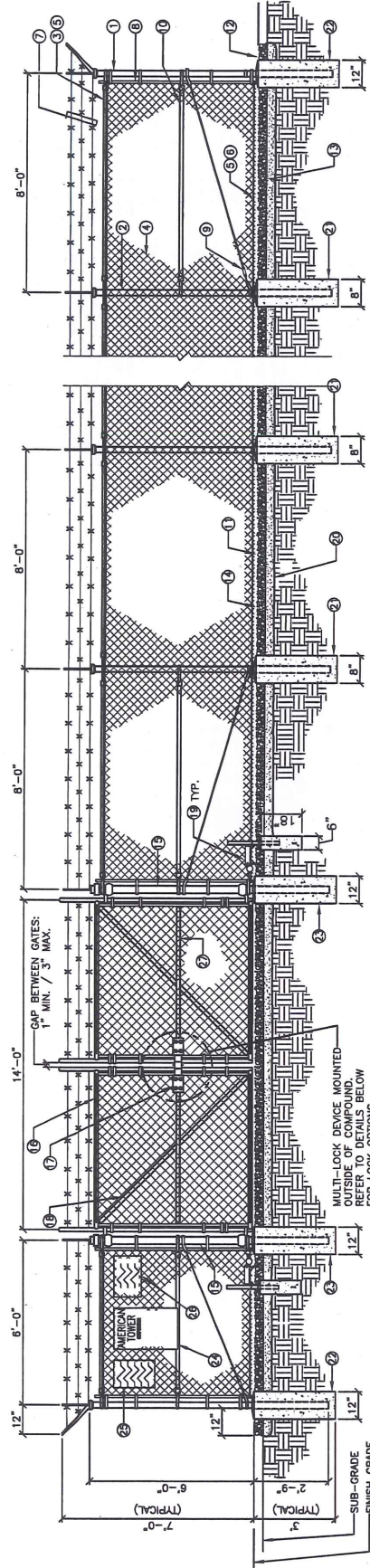
SITE ADDRESS:
 7 GRAND BLVD
 BATTLE CREEK, MI 49815

STAMP HERE

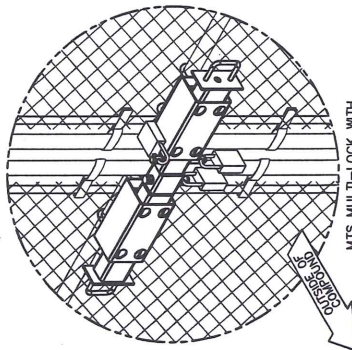
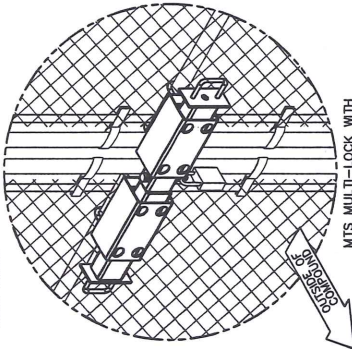
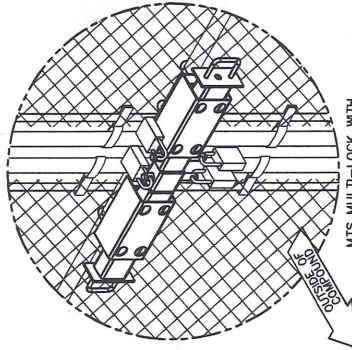
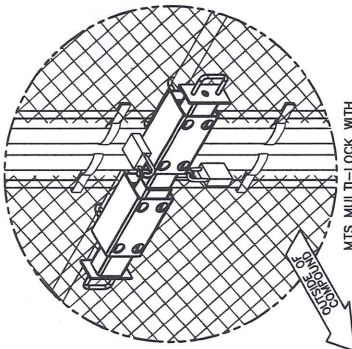
DRAWN BY:	PP
CHECKED BY:	SAE
DATE DRAWN:	01/12/10
JOB NO.	4440371
SHEET TITLE	

EXISTING
 COMPOUND
 FENCE DETAIL

SHEET NUMBER	REV. #
A-4	0

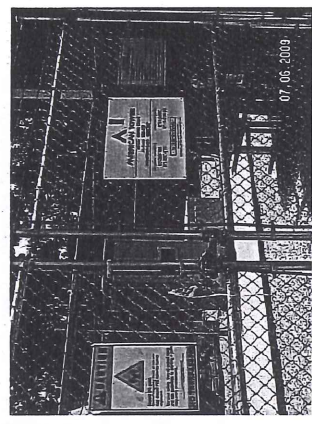


- REFERENCE NOTES:**
- CORNER END OR PULL POST: 3" NOMINAL SCHEDULE 40 PIPE.
 - LINE POST: 2 1/2" SCHEDULE 40 PIPE, PER ASTM-F1083.
 - TOP RAIL & BRACE RAIL: 1 1/2" PIPE, PER ASTM-F1083.
 - FABRIC: 9 GA CORE WIRE SIZE 2" MESH, CONFORMING TO ASTM-A392. A SINGLE WRAP OF FABRIC TIE AND AT TENSION WIRE BY HOG RINGS SPACED MAX. 24" INTERVALS.
 - TIE WIRE: MINIMUM 11 GA GALVANIZED STEEL AT POSTS AND RAILS.
 - TENSION WIRE: 9 GA. GALVANIZED STEEL.
 - BARBED WIRE: DOUBLE STRAND 12-1/2" O.D. TWISTED WIRE TO MATCH WITH FABRIC 14 GA. & 1". BARS SPACED ON APPROXIMATELY 5" CENTERS.
 - STRETCHER BAR.
 - DIAGONAL ROD WITH GALVANIZED STEEL TURNBUCKLE OR DIAGONAL THREADED ROD.
 - FENCE CORNER POST BRACE: 1 5/8" DIA. EACH CORNER EACH WAY.
 - 1 1/2" MAXIMUM CLEARANCE FROM GRADE.
 - FINISH WIRE OR AS DETERMINED BY CONSTRUCTION MANAGER DURING BID WALK.
 - WALL OR FENCED BASE MATERIAL OR AS DETERMINED BY CONSTRUCTION MANAGER DURING BID WALK.
 - FINISH GRADE SHALL BE UNIFORM AND LEVEL.
 - GATE POST: 4" SCHEDULE 40 PIPE, FOR GATE POSTS THROUGH THE GATE FOR DOUBLE SWING GATE, PER ASTM-F1083.
 - GATE FRAME: 1 1/2" PIPE, PER ASTM-F1083.
 - MTS MULTI-LOCKING DEVICE #MT-0477, (O.F.C.I.).
 - GATE DIAGONAL GALVANIZED STEEL 1 1/2" PIPE.
 - DUCK BILL OPEN GATE HOLDER. VERIFY LOCATION IN FIELD PRIOR TO INSTALLATION.
 - GEOTEXTILE FABRIC.
 - LINE POST: CONCRETE FOUNDATION (2000 PSI).
 - CORNER POST: CONCRETE FOUNDATION (2000 PSI).
 - GATE POST: CONCRETE FOUNDATION (2000 PSI).
 - 18" x 24" AMERICAN TOWER SIGN.
 - 12" x 18" YELLOW CAUTION SIGN.
 - 12" x 18" EMPLOYEE NOTICE SIGN.
 - GATE FRAME BRACE: 1 5/8" DIAMETER.



NOTE:
 EXISTING FENCE DETAIL

NO PLUNGER OR MUSHROOM REQUIRED.



STAFF REPORT

Subject:

Appeal from Mel Motley American Tower Corporation, on behalf of Archie Crooks, property owner, for a variance that would allow the relocation of a self-supporting tower at 7 Grand Boulevard.

Legal Description:

RURAL PARK ADD THE W 240 FT OF THE S 50 FT OF LOT 31, ALSO LOT 32 & N 2 FT OF LOT 33
EXC S 51.2 FT OF W 131 FT OF LOT 32 & EXC W 131 FT OF N 2 FT OF LOT 33

(Commonly known as 7 Grand Boulevard)

ZBA Appeal #Z-5-07 American Tower Tower Relocation



Property Owners Notified:

Approximately 47 notices of this appeal were mailed on May 24, 2007, to property owners located within 300 feet of the subject parcel.

An advertisement of this public hearing was published in Battle Creek Shopper on May 24, 2007, not less than the 15 days before the hearing as required by state law and ordinance.

Existing Zoning:

The property is located in the R-2 Two-Family Residential District”.

Variance Requested:

The appellant is requesting a variance from the Planning and Zoning Code to allow for the re-location of an existing 120’ self-supporting tower with a 140’ monopole structure approximately 200’ from the original structure, approximately 32’ from a property line, and approximately 160’ from an existing multifamily residential unit.

Applicable Zoning Ordinance:

Chapter 1297, Telecommunication Towers,

1297.08 ADMINISTRATIVELY APPROVED USES.

(a) The following uses may be approved by the Planning and Community Development Department after conducting an administrative review:

(1) Locating an antenna on existing structures other than a tower may be approved by the Planning and Community Development Department as an accessory use to any commercial, industrial, professional, institutional or multifamily structure of eight or more dwelling units, provided that:

A. The antenna does not extend more than thirty feet above the highest point of the structure;

B. The antenna complies with all applicable FCC and FAA regulations; and

C. The antenna and necessary equipment, shelter and fencing complies with all applicable building and zoning codes.

(2) Locating an antenna on an existing tower may be approved by the Planning and Community Development Department and, to minimize adverse visual impact associated with the proliferation and clustering of towers, co-location of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such co-location is accomplished in a manner consistent with the following:

A. **Modifications.** A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower unless the Planning and Community Development Department allows reconstruction as a monopole.

B. **Height.** An existing tower may be modified or rebuilt to a taller height not to exceed thirty feet over the tower's existing height only to accommodate the co-location of an additional antenna. The height change permitted by this paragraph may only occur one time per communication tower. The additional height permitted by this paragraph shall not require an additional distance separation as set forth elsewhere in this chapter. The tower's pre-modification height shall be used to calculate such distance separations.

C. **On-site relocation.** A tower which is being rebuilt to accommodate the co-location of an additional antenna may be moved on a lot within fifty feet of its existing location. After such tower is rebuilt to accommodate the co-location, only one tower may remain on the lot. A relocated on-site tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to other provisions of this chapter. The on-site relocation of a tower under this paragraph shall not be deemed to be a violation of those provisions of this chapter regarding separation of distances between towers. However, the on-site relocation of a tower which comes within the separation distances to off-site uses and designated areas as set forth in Section 1297.12 shall be permitted only when a variance has been approved by the Zoning Board of Appeals. ...

1297.11 SETBACKS.

The following setback requirements shall apply to all towers and antennae for which either administrative approval or a special use permit is required:

(a) Towers must be set back a distance equal to at least seventy-five percent of the height of the tower, from any adjoining lot line.

1297.12 SEPARATION REQUIREMENTS.

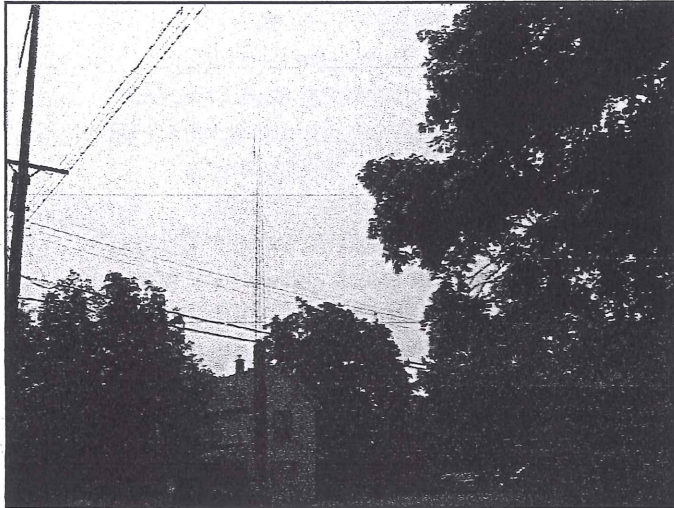
The following separation requirements shall apply to all towers and antennas for which either administrative approval or a special use permit is required:

(a) Separation From Off-Site Uses and Designated Areas.

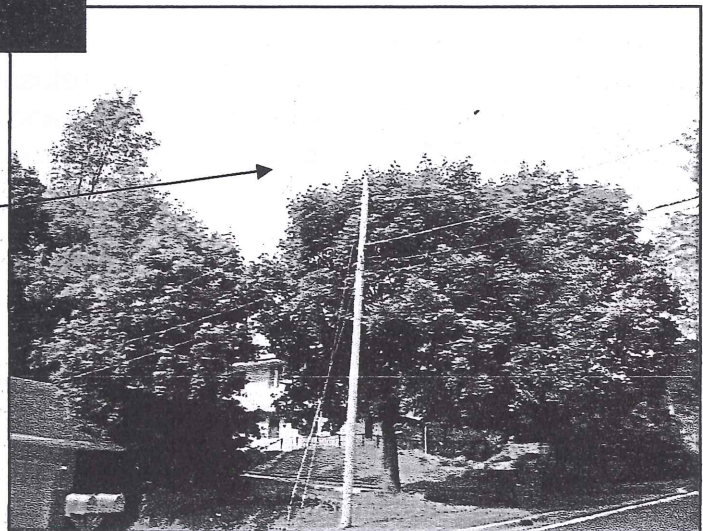
(1) Tower separation shall be measured from the base of the tower to the adjoining lot line of any off-site residential use or the principal residential structure on the same lot as the tower.

(2) A tower shall be located 200 feet or three times the height of the tower, whichever is greater, from any single-family residential units or vacant single-family residentially zoned land which is platted or has received preliminary subdivision plan approval which has not expired.

(3) A tower shall be located 100 feet or two times the height of the tower, whichever is greater, from any vacant unplatted residentially zoned land or existing multifamily residential units.



View of existing tower from
Grand/Territorial intersection



View of tower looking west from
Territorial

Appellant Stated Hardship / Practical Difficulty:

- a) This property cannot be used in conformance with the ordinance without the requested variance because:

Appellants Response: *"This tower was built in 1998, prior to the adoption of the ordinance, at the time the facility was constructed it complied with the city code. Once the ordinance came into affect the facility no longer complied to code. In addition, there are several large buildings on the parent tract which limits our ability to locate the newly proposed tower site within setback requirements."*

- b) This problem is due to a unique situation not shared in common with nearby property owners because:

Appellants Response: *"The facility was constructed prior to the adoption of the city ordinance, and complied to all code requirement at time of construction. Several buildings are located on the property which limits the expansion of the existing structure in its current location."*

- c) Granting the variance would not alter the essential character of the area because:

Appellants Response: *"There is a tower existing on the property which we will relocate from its current location to the southeast section of the property between tow buildings and minimize view from Grand Blvd."*

- d) The problem is not self-created because:

Appellants Response: *"This facility was erected prior to the adoption of the ordinance and under the ordinance the proposed facility would not meet setback due to shape of parent tract and existing buildings on the property."*

- e) (USE VARIANCES ONLY) It is not possible to use this particular property for any other use currently allowed ion the zone district because:

Appellants Response: *"Although the property is zoned R-2 for the past several years the operation of Crooks Plumbing & Heating has been on-site."*

Zoning Board of Appeals Authority:

Chapter 1234 "Zoning Board of Appeals", Section 1234.04 "Jurisdiction", provides the following criteria for your deliberation:

"(c) In consideration of all appeals and proposed exceptions to or variations from this Zoning Code, the Board shall, before making any such exceptions or variations, in a specific case, first determine that the following conditions are satisfied:

(1) A variance may be granted only when it can be clearly demonstrated by the petitioner that hardship or practical difficulty will in fact exist if such a variance is not granted.

(2) The mere fact that older, larger signs constructed under prior ordinances exist in the area shall not be sufficient reason to declare hardship or practical difficulty.

(3) In no case shall a variance be granted if it is determined by the Board that the applicant has created the hardship or practical difficulty.

(4) Before a variance is granted, it must be shown that the alleged hardships or practical difficulties are exceptional and peculiar to the property of the person requesting a variance and result from conditions which do not generally exist throughout the City.

(5) The applicant for a variance shall be prepared to furnish documentation to indicate that hardships or practical difficulties do, in fact, exist.

(6) The term hardship shall not be deemed financial hardship relating to the cost or size of the sign, the fact that a sign has already been erected or the fact that a sign is only available in standard sizes.

(7) The alleged hardship or practical difficulty, which will result from a failure to grant the variance must include substantially more than a mere inconvenience or a mere inability to attain higher financial return.

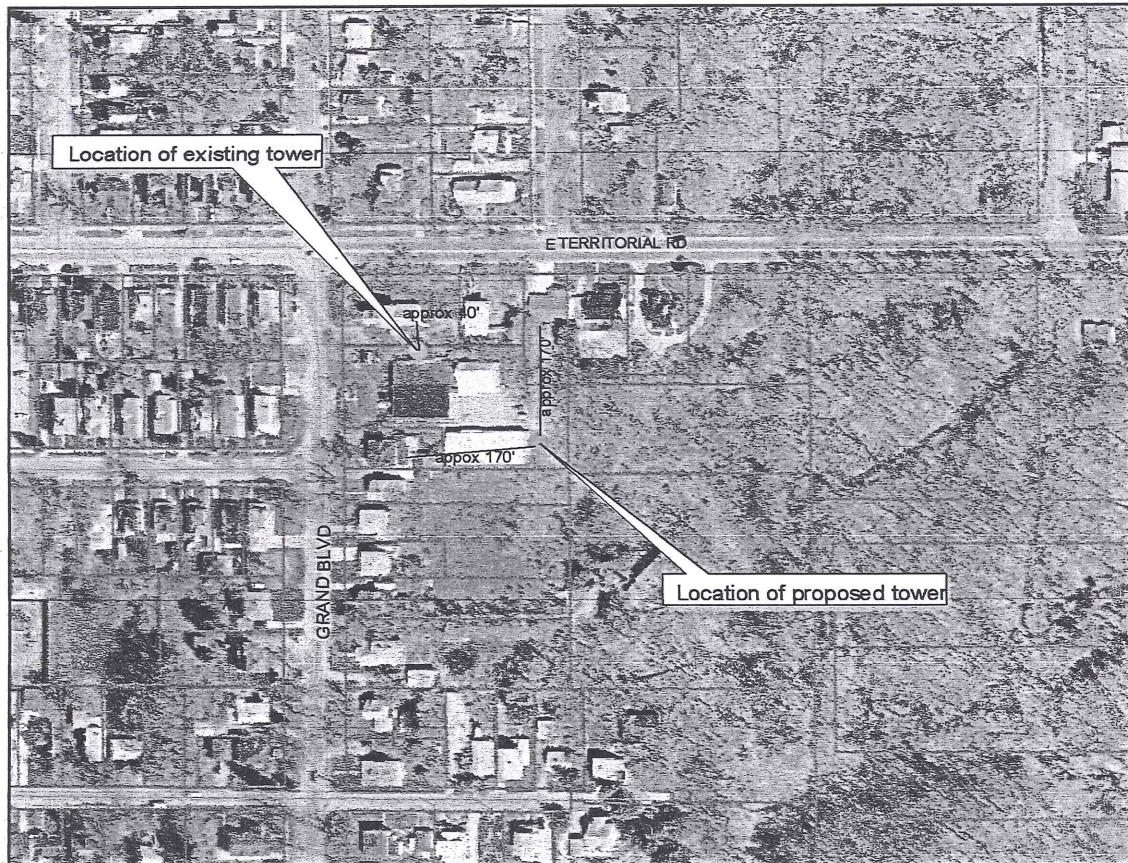
(8) It must be shown that allowing the variance will result in substantial justice being done, considering the public benefits intended to be secured by this Zoning Code, the individual hardships that will be suffered by a failure of the Board to grant a variance and especially the rights of others whose property would be affected by the allowance of the variance.

(9) Every finding of fact of the Board shall be supported in the record of proceedings of the Board.

(10) Nothing contained in this section shall be construed to authorize the Board to change the terms of this Zoning Code.

Analysis and Comments:

The Appellant is requesting a variance that would authorize the reconstruction of an existing tower on property located at 7 Grand Boulevard. The property is located in an R-2 "Two-Family Residential District". The Crooks Plumbing and Heating business and an existing tower occupy the subject property as a non-conforming structures and uses. The Appellant has stated that the existing tower was built in 1998 and it pre-dates the existing zoning code requirements for telecommunication towers [see chapter 1297.049(b)]. The existing tower is located approximately 10' from the north, side property line, 40' from the nearest residence on Territorial Road, and is 120' tall. The Appellant would like to relocate the existing tower to the southeast corner of the property with a monopole structure. The proposed location is approximately 170' to the nearest residence and would increase the setback distance to the nearest property line to approximately 32'. The proposed tower would be 140' in height and able to accommodate additional wireless carriers.



Is there something unique about this lot or property that makes relief necessary? The existing tower can remain as a non-conforming structure into perpetuity. However, we have been told that the tower structurally is unable to accommodate additional carriers. Under Chapter 1297.08, the tower can be rebuilt to a taller height not to exceed thirty feet over the towers existing height to accommodate additional antenna if it is located within 50' of the existing structure. The Appellant is requesting to move the tower to the rear of the property 200' feet away from the structure but further away from existing residential uses by approximately 130'. We think this may be the best option available rather than keeping the existing structure (which is unable to accommodate additional carriers) and building a new tower in a different location.

As of the writing of this report, we have not heard from anyone supporting or objecting to this appeal for a variance.

The Appellant's stated "hardship" and "practical difficulty" is included in this report. Members of the Zoning Board of Appeals know that we will always try to help identify specific elements of a "hardship", "practical difficulty", or "uniqueness" to help determine if relief is warranted. We think that moving the tower to the back of the property to accommodate additional carriers, moving the tower structure further away

from property lines, moving the tower further away from existing residences, and possibly reducing the number of total towers in the City are all reasons to approve the requested variance and may be the best possible option in this case. If there are no objections from neighbors who have not yet been heard and the appellant can satisfy any questions posed by the Zoning Board of Appeals, the Planning staff believes that the unique circumstances mentioned above may warrant relief and a variance from the strict letter of Chapter 1297 "Telecommunication Towers" outlined in the planning and zoning code.

We would remind you that when deliberating to approve or deny this variance request, clearly identify your reasoning and Finding of Facts for the record.